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NOTES/COMMENTS:

In re Application of: John A. Hey *et al.*
 For Patent Entitled: Use of Dual H₁/M₂ Antagonists in the Treatment
 of Cognition Deficit Disorders

Filed: 02/06/2002
 Attorney Docket No.: CN01383K
 Serial No.: 10/072,340

Transmitted herewith are:

- Request for Reconsideration Under 37 CFR § 1.705 (b) of the Patent Term Adjustment Under 35 USC § 154(b) – (3 pgs.)
- Patent Term – Analysis Summary Report (5 pgs.)
- Fee Transmittal – PTO/SB/17 in duplicate
- Certificate of Transmission under 37 CFR 1.8, PTO/SB/97 (1 pg.)
- Fax Cover Sheet (1 pg.)


 Anita W. Magatti
 Registration No. 29,825

PHONE: (908) 298-5067

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Attorney Docket No.: CN01383K

Application No.: 10/072,340

Filing Date: 02/06/2002

First Named Inventor: John A. Hey et al.

PTO/SB/97 (08-03)
Approved for use through 07/31/2006. OMB 0651-0091
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Date



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Anita W. Magatti, Reg. No. 29,825

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Document(s) being transmitted:

Request for Reconsideration Under 37 CFR 1.705(b) of the Patent Term Adjustment Under 35 USC 154(b) (3 pgs.)

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FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 200.00)

Complete if Known

Application Number	10/072,340
Filing Date	02/06/2002
First Named Inventor	John A. Hey et al.
Examiner Name	San-ming Hui
Art Unit	1617
Attorney Docket No.	CN01383K

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account:

Deposit Account Number **19-0365**

Deposit Account Name

The Director is authorized to: (check all that apply)

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- Charge any additional fees) or any underpayment of fees)
- Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

FEE Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 13a	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 430	2252 215	Extension for reply within second month	
1253 680	2253 490	Extension for reply within third month	
1254 1,530	2254 785	Extension for reply within fourth month	
1255 2,080	2255 1,040	Extension for reply within fifth month	
1401 340	2401 170	Notice of Appeal	
1402 340	2402 17D	Filing a brief in support of an appeal	
1403 300	2403 150	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,380	2453 655	Petition to revive - unintentional	
1501 1,370	2501 685	Utility issue fee (or reissue)	
1502 490	2502 245	Design issue fee	
1503 660	2503 330	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1808 180	1808 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR 1.129(e))	
1810 790	2810 395	For each additional invention to be examined (37 CFR 1.129(b))	
1801 790	2801 395	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	
Other fee (specify) Patent Term Adjustment (37 CFR 1.18(e))			200.00
* Reduced by Basic Filing Fee Paid			SUBTOTAL (\$ 200.00)

* For number previously paid, if greater. For Reissues, see above

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Anita W. Magatti	Registration No. (Attorney/Agent)	29,825	Telephone	908-298-5067
Signature	<i>Anita W. Magatti</i>			Date	11/17/2004

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NOV 17 2004

PATENT
CASE CN01383KIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
John A. Hey, et al

For Patent For :
Use of Dual H₃/M₂ Antagonists in the Treatment of Cognition Deficit Disorders

Serial No.: 10/072,340

Filing Date: February 6, 2002

X
Schering-Plough Corporation
Kenilworth, New Jersey 07033-0530

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705 (b)
OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)
INDICATED IN THE NOTICE OF ALLOWANCE

Sir:

The Applicants request reconsideration of the patent term adjustment of fifteen (15) days indicated in the Notice of Allowance of November 2, 2004, for the above-identified application. For the reasons provided below, the Applicants further request that the patent issuing from the above-identified patent application be afforded a patent term adjustment of forty-four (44) additional days. For the USPTO's convenience, the Applicants enclose a hard copy of the Analysis Summary Report compiled by a commercial software program that contains the Applicant's determination of the patent term adjustment.

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. 703-872-9307) on November 17, 2004.

(Date)

Typed or printed name of person signing this certificate.

Anita W. Magatti
(name)

Signature

-2-

In accordance with 37 C.F.R. §1.702, the above-identified application was filed after May 29, 2000 and therefore, is eligible for patent term adjustment under 35 U.S.C. §154(b). The Notice of Allowance has been mailed and the Issue Fee has not been paid yet.

The Applicants provide a statement of facts regarding the correct patent term adjustment as follows:

(i) The patent term adjustment should be **forty-four (44)** additional days.

The Applicants enclose a hard copy of the Analysis Summary Report compiled by a commercial software program that contains the Applicants' determination of the patent term adjustment. In short, the net adjustment credits were 93 days and the net adjustment debits were 34 days, making the net adjustment 59 days.

(ii) The relevant dates as specified in §§ 1.703(a) through (e) for which the adjustment is sought and the adjustment as specified in § 1.703(f) to which the patent is entitled are:

- The projected date of issuance of the above-identified patent application is calculated to be **May 10, 2005**, whereas three (3) years after the date that the application was filed under 35 U.S.C. § 111(a) is **February 6, 2005**, resulting in **ninety-three (93) credit days** [37 C.F.R. §1.703(b)].

No time was consumed by continued examination, an interference proceeding, imposition of a secrecy order, review by the Board of Patent Appeals and Interferences or delay in processing of the application requested by the applicants for the above-identified application.

If the application issues earlier or later than May 10, 2005, then the exact number of credit days will be fewer or greater, respectively.

(iii) The patent is not subject to a terminal disclaimer.

-3-

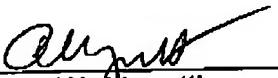
(iv) In spite of due care, the Applicants were unable to respond within three months to the non-final Office Action mailed on October 22, 2003. The Office received the Reply to the non-final Office Action on February 25, 2004, resulting in thirty-four (34) debit days [37 C.F.R. §1.704(b)].

- The patent term adjustment is forty-four (44) additional days calculated by subtracting the thirty-four (34) debit from the ninety-three (93) credit days [37 C.F.R. §1.703(f)] to obtain 59 credit days and further subtracting the allowed 15 credit days to reach the additional 44 days.

Please charge the fee of \$200.00 set forth in 37 C.F.R. § 1.18(e) to Deposit Account No. 19-0365. A Fee Transmittal Form is enclosed.

No additional fees are believed to arise due to this filing, however, if any additional fees are required, the Commissioner is hereby authorized to charge any required fees to Deposit Account No. 19-0365.

Respectfully submitted,



Anita W. Magatti
Reg. No. 29,825
Attorney for Applicants
(908) 298-5067



Analysis Summary Report

APPLICATION INFORMATION			
Docket Number:	CN01383K	Analysis Generated:	11/15/2004 01:58:41 PM ET
Application Number:	10/072,340	User Name:	Magatti, Anita
Filing Date:	02/06/2002	Firm/Company Name:	Schering-Plough Corp.
Title/Inventors:	USE OF DUAL H3/M2 ANTAGONISTS IN THE TREATMENT OF COGNITION DEFICIT DISORDERS; John Hey , Randolph, NJ (US)	Attorney/Agent Comments:	

IPA TERM ANALYSIS SUMMARY	
Earliest Referenced Application under 35 USC § 120, 121, or 365(c):	02 / 06 / 2002
Filing Date (US National Application):	02 / 06 / 2002
Net Adjustment Credits:	93 Days
Net Adjustment Debits:	34 Days
Net Patent Term Adjustment:	59 Days
IPA Patent Term End Date:	04 / 06 / 2022 (I)
(I) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 02/06/2022.	

RULE OF PRACTICE STATEMENT		CREDITS		DAYS	
Rule	Text	First PTO Action:	05/07/2003	Response to Election-of-Species / Restriction Filed:	0 0 31
A	14-Month PTO First Action PTO must mail a notification under 35 USC 132 or a notice of allowance under 35 USC 151 not later than 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 in an international application. Period of adjustment (credits) begins on the day after the date that is 14 months after the date on which the application was filed under 35 USC 111(a) or fulfilled the requirements of 35 USC 371 and ending on the date of mailing of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(i); 37 CFR 1.702(g)(1), 1.703(a)(1).	3-Year PTO Issue of Patent	Issue Date: 05/10/2005 Issue Date	0 0 93	
B	02/06/2002 Filing Date under 35 USC 111(a) (US National Application)	PTO must issue a patent within 3 years (not including exclusions) after the date on which the application was filed under 35 USC 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application. Period of adjustment (credits) begins on the day after the date that is 3 years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 USC 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the listed exclusional periods. 35 USC 154(b)(1)(B); 37 CFR 1.702(b), 1.703(b). You have elected to analyze this rule under the PTO Exclusion Interpretation, but this election did not affect the number of credit days under this rule.	1-Year Applicant Response to Notice or Action	Applicant Response: 06/04/2003 Response to Election-of-Species / Restriction Filed	0 0 0
C	02/06/2002 Filing Date under 35 USC 111(a) (US National Application)	Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154(b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	Applicant Response: 06/04/2003 Response to Election-of-Species / Restriction Filed	0 0 0	

D	06/04/2003 Response to Electon-of-Species / Restriction Filed	PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(f)(2),(3).	PTO Response: 10/22/2003 Non-final Action	PTO Response: 0 0 18
E	10/22/2003 Non-final Action	1-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(2)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	Applicant Response: 02/25/2004 Reply after Non-final Action under 37 CFR 1.111	PTO Response: 0 34 0
F	02/25/2004 Reply after Non-final Action under 37 CFR 1.111	4 Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 132 not later than 4 months after the date on which the reply was filed. The period of adjustment (credits) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 132, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(f)(2),(3).	PTO Response: 05/17/2004 Non-final Action	PTO Response: 0 0 0
G	05/17/2004 Non-final Action	1-Month Applicant Response to Notice or Action Period of adjustment (credits) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b). Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	Applicant Response: 08/16/2004 Reply after Non-final Action under 37 CFR 1.111	PTO Response: 0 0 0

			PTO Response: Notice of Allowance under 35 USC 151	11/02/2004 0 0 0
H	08/16/2004 Reply after Non-final Action under 37 CFR 1.111	4-Month PTO Response to Applicant Reply PTO must respond to a reply under 35 USC 152 not later than 4 months after the date on which the reply was filed. The period of adjustment (credit) begins on the day after the date that is 4 months after the date a reply under 37 CFR 1.111 or in compliance with 37 CFR 1.113(c) was filed and ending on the mailing date of either an action under 35 USC 152, or a notice of allowance under 35 USC 151, whichever occurs first. 35 USC 154(b)(1)(A)(ii); 37 CFR 1.702(a)(2), 1.703(b)(2),(3).	PTO Response: Notice of Allowance under 35 USC 151	11/02/2004 0 0 0
I	11/02/2004 Notice of Allowance under 35 USC 151	1-Month Applicant Response to Notice or Action Period of adjustment (credit) shall be reduced for the period in excess of 3 months taken to reply to any PTO notice or action making any rejection, objection, argument, or other request, beginning on the day after the date that is 3 months after the date of mailing or transmission of the Office communication and ending on the date the reply was filed. The period, or shortened statutory period, for reply set in the action or notice has no effect on this deadline. 35 USC 154 (b)(2)(C)(ii); 37 CFR 1.704(b).	<i>Applicant Response:</i> Issue Fee Payment under 35 USC 151	02/02/2005 0 0 0
J		Where applicant shows, in spite of all due care, applicant was unable to respond within the 3-month period, all or part of adjustment may be reinstated for up to 3 additional months. 35 USC 154(b)(3)(C); 37 CFR 1.705(c). You have indicated that no 1.705(c) Showing of Due Care was made.	4-Month PTO Issue of Patent PTO must issue a patent not later than 4 months after the date on which the issue fee was paid under 35 USC 151 and all outstanding requirements were satisfied. The period of adjustment (credit) begins on the day after the date that is 4 months after the date the issue fee was paid and all outstanding requirements were satisfied and ends on the day the patent issues. 35 USC 154(b)(1)(A)(iv); 37 CFR 1.702(a)(4), 1.703(a)(6).	Issue Date: 05/02/2005 Issue Date
		Total Exclusion, Debit, and Credit Days Overlap Days Net Exclusion, Debit, and Credit Days Net Patent Term Adjustment Days	The term of this patent ends on 04/06/2022 (2) (2) Assumes payment of all maintenance fees and no intervening acts. Terminal disclaimer(s) filed in this case, if any, may reduce the term. Without adjustment, the term would end on 02/06/2022. †Net credits were limited by 37 CFR § 1.703(f "Actual Delay" limitation. See calculation below.	0 34 142 0 0 0 0 34 93† 59

NET CREDIT DAYS EXCLUDED FROM PAYMENT DATES	
Credit Days Excluded from Payment Dates	49
Credit Days Dominant	0
Exclusive Date	93
Excessive Credit	93
Guarantee	49
Maximum Credit Days under 37 CFR § 1.703(f) "Actual Delay" Limitation	93
Net Credit Days	

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